

U.S. Department of Labor

Office of the Assistant Secretary for
Veteran's Employment and Training
Washington, D.C. 20210

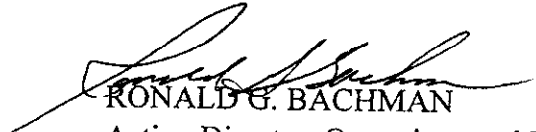


April 2, 2001

DIRECTOR'S MEMORANDUM NO. 22-01

MEMORANDUM FOR: REGIONAL ADMINISTRATORS AND DIRECTORS FOR
VETERANS' EMPLOYMENT AND TRAINING

FROM:


RONALD G. BACHMAN
Acting Director, Operations and Programs

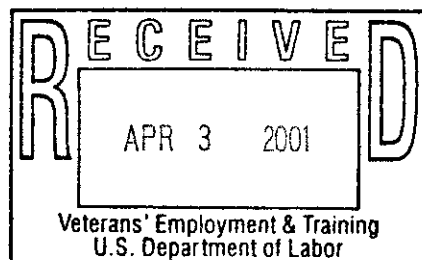
SUBJECT: Process for Referral of Meritorious Veterans' Preference Cases to
Office of Special Counsel (OSC) for Consideration of Disciplinary
Action as a Prohibited Personnel Practice

REFERENCES: Memorandum of Understanding between VETS and OSC
The Veterans Employment Opportunity Act of 1998 (VEOA)

PURPOSE: To provide guidance to be followed by VETS staff in referring meritorious veterans' preference cases to OSC in accordance with the provisions of the December 2000 VETS-OSC Memorandum of Understanding (MOU).

BACKGROUND: Section II of the MOU deals with VETS and OSC activities under the VEOA. Subsection A.2 of Section II covers referral of VEOA claims from VETS to OSC and says, in pertinent part:

"... any claim under VEOA that is determined to be meritorious as a result of VETS' investigation will be referred to OSC for review as a potential prohibited personnel practice for disciplinary action purposes. It is understood that the referral will be made whether or not the case is resolved through VETS' efforts and that such referral is not subject to request or approval by the claimant. Such referral will be made by the investigator through his or her Regional Administrator (RA) using procedures to be developed by VETS in consultation with OSC."



*cc: Jon Harkins,
Bill Lynn, Sue*

During March, VETS compliance staff and OSC agreed on procedures to be used in these referrals. In the course of the discussion, it was agreed that VEOA referrals do not require the amount of analysis and documentation contained in most referrals under the Uniformed Services Employment and Reemployment Rights Act. Accordingly, the VEOA procedures are simple and impose a minimum of workload on the RAs involved.

GUIDANCE: The following procedures will be followed in referring meritorious veterans' preference cases from VETS to OSC:

1. The VETS investigator will send the case file through channels to his or her Regional Administrator (RA), identifying the case as one that has been determined to be meritorious.
2. The RA will refer the case to OSC by means of a letter containing the following information:
 - Begin the letter with the statement that the matter is being referred to OSC for possible disciplinary action.
 - A description of the case – identify the claimant, the agency and the issue(s).
 - Note that VETS has determined the case has merit.
 - Provide the status of the case since being closed by VETS (i.e., the claimant has been “made whole” by the agency; the claimant has decided to not pursue the case; the claimant has decided to appeal to the Merit Systems Protection Board). If the claimant has decided to appeal to the Merit Systems Protection Board, advise OSC of the Board office where the appeal has been filed.
 - It is critically important to advise OSC of any egregious behavior by the employer uncovered by the investigation. Did the employer make any statements that displayed animus? Did the investigation uncover what could be a pattern of discrimination?
3. The letter from the RA to OSC is expected to be brief and simple in most cases. However, under the provisions of the MOU, the Regional Solicitor of Labor will be available to the RA for consultation if needed.
4. Do not send the case file initially. OSC has advised that they will request a copy of the case file from the RA concerned if desired.
5. Following their analysis, OSC will advise the RA if disciplinary will be taken.

Send the letter to OSC to the following address:

Mr. Ronald Jaicks, USERRA Coordinator
U.S. Office of Special Counsel
1730 M Street, N.W., Suite 210
Washington, DC 20036-4505

ACTION: RAVETS will notify all VETS investigative staff of the procedures to be followed as outlined in this DM.

INQUIRIES: Any questions regarding this DM should be directed to Norm Lance (202) 693-4731 or Nick Dawson (202) 693-4711.

Expiration Date: Until Superseded.